

April 28, 2009

TO: Dawn DeShazer

FROM: Teresa Parsons, SPHR
Director's Review Program Supervisor

SUBJECT: Dawn DeShazer v. Department of Social & Health Services (DSHS)
Allocation Review Request ALLO-08-036

On March 17, 2009, I conducted a Director's review conference regarding the allocation of your position. You participated by telephone conference call, and Pam Pelton, Classification and Compensation Manager, represented DSHS by appearing in person at the Department of Personnel, 2828 Capitol Boulevard, Olympia, Washington.

Director's Determination

This position review was based on the work performed for the six-month period prior to December 14, 2007, the date you originally submitted your request for a position review to DSHS's Human Resources Division (HRD). As the Director's designee, I carefully considered all of the documentation in the file, the exhibits presented during the Director's review conference, and the verbal comments provided by both parties. Based on my review and analysis of your assigned duties and responsibilities, I conclude your position should be reallocated to the Human Resource Consultant 2 classification.

Background

On December 14, 2007, DSHS's Classification & Compensation Unit received your initial request to reallocate your position (#DN68) from the Human Resource Consultant 1 (HRC 1) classification to the Human Resource Consultant 2 (HRC 2) classification. Your request for reallocation was documented in a Position Description Form (PDF), signed by you and your supervisor, Regional Administrator Marty Bulkovich, on December 12, 2007 (Exhibit B-1, pages 6-10). At the request of Ms. Pelton, you subsequently completed a Position Review Request (PRR), signed on June 10, 2008 (Exhibit B-3), and a new PDF, signed June 19, 2008 (Exhibit B-1, pages 1-5). Both you and Mr. Bulkovich signed the PRR and PDF submitted to DSHS's Classification & Compensation Unit in June 2008. During the Director's review conference, you explained that your initial request for reallocation was made in December 2007, and Ms. Pelton agreed that December 14, 2007, was the effective date of your reallocation request.

By letter dated June 20, 2008, Ms. Pelton determined that your position was properly allocated to the HRC 1 classification. Specifically, Ms. Pelton indicated that as a regional HR representative, you work under the regular guidance of a higher level human resource professional or manager located in the Children's Headquarters office. Ms. Pelton further determined that your duties and responsibilities reflected a routine scope and variety of assignments involving repetitive tasks, which required some judgment in respect to the rules, procedures, or materials. Ms. Pelton determined that your position independently makes decisions about recurring work processes or methods used, which she described as HRC 1 level work.

On July 15, 2008, the Department of Personnel received your request for a Director's review of DSHS's allocation determination.

The following summarizes your viewpoint as well as your employer's:

Summary of Ms. DeShazer's Perspective

You disagree that the work you perform is routine or repetitive. Instead, you assert your position serves as the primary consultant for the entire Division of Children and Family Services (DCFS) in Region 1. As a result, you state you provide expert professional level consultation and assistance to the Regional Administrator, managers, supervisors, and employees for all of the field offices located in DCFS Region 1. You contend that you advise on issues such as interpretation of policies, laws, rules, and collective bargaining agreements as they relate to HR issues. For example, you contend that you consult and advise managers on disciplinary actions, grievances, labor relations, reasonable accommodations, the hiring process, Family Medical Leave Act (FMLA), and Fair Labor Standards Act (FLSA). You also state that you handle the first step of the grievance process and review, draft, and make recommendations about letters of reprimand, counseling memos, letters of expectations for performance, and corrective action plans.

While you acknowledge that an HR Consultant from HRD may also attend initial grievance meetings, you assert that you are tasked with assisting the Regional Administrator at the first step level. As such, you assert that you draft the first level of correspondence for the manager's or administrator's signature. You indicate that you provide a copy to the HR Consultant in HRD for her review but state that changes are rarely made and that you rarely consult with a higher-level HR Consultant. You maintain that you are the primary, first point of contact for HR issues that arise in DCFS Region 1 and that you deal with a variety of HR issues that are complex and unique and go beyond the level of an HRC 1.

Summary of DSHS's Reasoning

DSHS acknowledges you work independently and interpret and apply rules and policies. However, DSHS contends that level of knowledge and independence is expected of a professional level, HRC 1 position. DSHS asserts the duties and responsibilities assigned to HR Consultants working within DSHS's Administrations, such as DCFS, reflect routine, recurring HR functions, such as responding to inquiries from employees and managers or

processing personnel actions. DSHS agrees that you perform the first level of the grievance process, which DSHS describes as an internal process within each Administration. However, DSHS contends that higher-level HR functions are performed by higher-level HR Consultants or Labor Relations Specialists within HRD. As an example, DSHS indicates that HR actions involving a particular area like Reasonable Accommodation is handled by an HRD specialist, while you may process some of the initial paperwork.

DSHS contends that you work with a higher-level HR Consultant who also has responsibility for attending grievance meetings. Further, DSHS states that the higher-level HR Consultant also reviews the letters drafted by you. DSHS indicates that at the next level in the grievance process a Labor Relations Specialist from HRD represents the agency. Similarly, DSHS asserts that decisions about Reasonable Accommodation, FMLA, FLSA, or allocation of positions reside with staff in HRD. DSHS contends that the formats for letters and rule interpretations are already put in place for the level of work assigned to your position. DSHS asserts your position is tasked with applying the rules, laws, and policies to perform the initial steps involved in HR actions for your respective regional office. DSHS maintains that the duties and level of responsibility assigned to your position are consistent with the HRC 1 class.

Rationale for Director's Determination

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

When considering the duties and responsibilities assigned to your position, I reviewed the PDFs dated December 2007 and June 2008 and the PRR, as well as the comments made during the Director's review conference. While not exactly the same, the descriptions indicated as the General Description/Position Objective on each PDF include the following (Exhibit B-1):

Professional Level Human Resource Consultant who may consult with Human Resource Division (HRD) and Human Resource Manager (HRM) to independently provide assistance to the Division of Children and Family Services (DCFS) Region 1 managers, supervisors, employees and the public regarding human resource issues. This position provides full personnel services for nine offices of DCFS, Region 1, consisting of over 360 employees.

The human resource issues include: interpretation of DSHS policies and procedures; Washington Administrative Code (WAC); Collective Bargaining Agreements (CBA); and Laws pertaining to Family Medical Leave Act (FMLA); Fair Labor Standards Act (FLSA); Americans with Disabilities Act

(ADA) and Reasonable Accommodation. This position also provides assistance regarding performance management issues such as Just Cause; proper use of Position Description Form; proper use of Performance Development Plan; recruitment and retention; and employee development.

In addition, the June 2008 PDF describes your position as an expert level Human Resource Consultant serving as a member of the Region 1 Management Team and the primary consultant for the Appointing Authority and Area Administrators (Exhibit B-1, page 1). The Position Purpose on the June 10, 2008 PRR (Exhibit B-3) is consistent with the June 2008 PDF. The main job duties described on the PRR (Exhibit B-3, page 3) are also consistent with the essential functions listed on the PDFs. The majority of duties, identified as 80% on the PRR, include:

- Serving as primary consultant and advisor for management regarding:
 - Disciplinary actions
 - Grievances
 - Labor relations
 - Reasonable accommodation
 - FMLA
 - Recruitment and retention
 - Performance management and employee development
 - Affirmative Action
- Keeping Regional Administrator informed of personnel issues to include reviewing and making recommendation on letters of reprimand, counseling memos, corrective action plans, performance expectation plans, Performance Development Plans (PDPs), and Position Description Forms (PDFs) for managers and supervisors.
- Serving as the DCFS, Region 1, HR contact, providing interpretation of the personnel-related rules, CBAs, policies, procedures to provide advice and develop best practices for the Region.
- Attending step one grievance meetings and writing responses for Regional Administrator's signature. Attending grievance meetings at all levels including mediation and arbitration. Attending disciplinary meetings, which could result in an employee's termination.
- Assisting management in investigating allegations of employee misconduct. Collecting and receiving information from AAGs, supervisors, and HR professionals. Consulting with Regional Administrator and making recommendations regarding personnel options and/or solutions.

During the Director's review conference, we discussed your level of involvement with respect to the HR issues identified above. You indicated that at step one of the grievance process you attend the meeting with the Regional Administrator, take notes, and assist him by drafting a grievance response letter for his signature. The senior HR Consultant, Heidi Barratt, may or may not attend the initial grievance meeting with you. At the next level of

the grievance process, Ms. Barratt will attend and if a grievance goes to arbitration, a Labor Relations Specialist represents the agency. You stated that you attend meetings with the Regional Administrator for all levels of the grievance process. Once you complete a grievance letter/memo for the Regional Administrator's signature, you send a copy to Ms. Barratt for her review. When you advise supervisors and managers in the region about issues like performance or corrective action, you may draft a letter of reprimand or counseling memo for the supervisor's signature. However, letters of reprimand, counseling memos, letters of expectations, and performance feedback documents do not need to be reviewed by Ms. Barratt prior to being issued. In addition, you indicated that you advise the supervisor or manager about the steps in the grievance process and issues such as just cause. You also assist management with investigations into employee misconduct. Ms. Pelton affirmed that HRD does not become involved with internal (within an administration) corrective actions unless they become grievance issues.

In Exhibit G, you provided examples of some of the correspondence you have drafted. While a couple of the documents are beyond the timeframe of this review, you indicated they were representative of the work you performed at the time you requested reallocation. In addition to performance and corrective action, you included a letter you drafted in response to an Equal Employment Opportunity Commission (EEOC) complaint filed by an employee in DCFS, Region 1. During the Director's review conference, you explained that you reviewed the draft with the Regional Administrator and then forwarded the letter to another employee within Children's Administration to formalize (Stacy Winokur). Ms. Pelton indicated that an HRD specialist would act on behalf of the agency and that your role was limited to gathering information for the initial draft. While I recognize that an HRD specialist may ultimately handle the issue, the content of your initial draft goes beyond a routine and recurring duty. Instead, it demonstrates one of your responsibilities as it relates to fact finding in response to a formal complaint.

Both parties agree that your position serves as the primary consultant for DCFS within the region. You indicated that employees and managers will typically contact you first with questions and that supervisors and managers call you for consultation. You also stated that supervisors will send any related paperwork directly to you. As an example, you stated that supervisors may ask you questions regarding FMLA. While you help facilitate the paperwork, you stated you also provide advice and consultation within the context of related laws and rules. Your supervisor, the Regional Administrator, ultimately approves FMLA. With regard to reasonable accommodation, you agree that an HRD specialist handles those types of request but that you initially advise on the steps to take and that you attend hearings on behalf of the Regional Administrator.

The PRR for your position also indicates that 15% of your duties and responsibilities including providing technical assistance and support to the Regional Administrator and consulting and advising managers about the hiring process.

When comparing the assignment of work and level of responsibility to the available class specifications, the class series concept (if one exists) followed by definition and distinguishing characteristics are primary considerations. While examples of typical work identified in a class specification do not form the basis for an allocation, they lend support to

the work envisioned within a classification. The HR class series is written so each higher level incorporates the previous level, and many of the duties can overlap with increasing responsibility.

The **Human Resource Consultant 1** (class code 119E) definition reads:

Performs first-level professional human resource assignments in one or more areas of the human resource function such as classification, compensation, benefits, recruitment and selection, affirmative action and equal employment opportunity, reasonable accommodation, training, organizational development, and/or labor relations.

The distinguishing characteristics include the following:

Under general supervision, performs first-level professional human resource assignments. Works under the regular guidance of a higher level human resource professional or manager. Supervisor typically reviews work in progress as well as outcomes and assists with work prioritization. Positions work independently in making decisions regarding work processes or methods which will be used. Assignments are typically reoccurring, of limited scope, and/or involve a portion of a project. Assignments require analysis of a variety of policies and rules and development of strategies to resolve problems consistent with established standards.

The Department of Personnel's Glossary of Classification Terms defines **general supervision** as follows:

(<http://www.dop.wa.gov/CompClass/CompAndClassServices/Pages/HRProfessionalTools>)

Performs recurring assignments within established guidelines without specific instruction. Deviation from normal policies, procedures, and work methods requires supervisory approval. Supervisory guidance is provided in new or unusual situations. The employee's work is periodically reviewed to verify compliance with policies and procedures.

In addition, the glossary defines the **complexity of work** as follows:

Refers to the scope, variety and difficulty of the duties, responsibilities, and skills required to perform the work, including:

Routine – Performs several related and repetitive tasks that require some judgment regarding the rules, procedures, materials, or equipment that will be used.

Complex – Independently uses a wide variety of rules, processes, materials, or equipment to complete work assignments that require specialized knowledge or skills. Decisions are made independently regarding which rules, processes, materials, or equipment to use in order to effectively accomplish work assignments.

While some of your assignments may fit within the HRC 1 classification, the majority of your work is performed at a higher level. The HR duties you perform require use of a wide variety of rules and application of specialized knowledge as well as independent judgment. In addition, you are the primary human resource contact for DCFS, Region 1 and report directly to the Regional Administrator who serves as the appointing authority. Your duties exceed the beginning professional level. While Ms. Barratt, as the senior HR Consultant, does review completed drafts of grievance responses, there is no documentation to support she reviews your work in progress or that she or your supervisor assist you with work prioritization. Further, much of the work you perform goes beyond recurring or routine duties.

The **Human Resource Consultant 2** (class code 119F) definition reads:

Independently performs professional level human resource assignments in one or more areas of the human resource function such as classification, compensation, benefits, recruitment and selection, affirmative action and equal employment opportunity, reasonable accommodation, training, organizational development, and/or labor relations. Consults with and provides assistance to managers, staff and the public regarding human resource issues.

The distinguishing characteristics include the following:

Experienced professional level. Under general direction, independently provides professional human resource services. Works under general guidance of a higher level human resource professional or manager. Supervisor typically reviews outcomes and provides advice or direction as needed. Work performed is complex, but impact of decisions is generally limited. Assignments normally involve making decisions and judgments within established precedents.

The Department of Personnel's Glossary of Classification Terms defines **general direction** as follows:

Performs assignments within established policies and objectives. Incumbents plan and organize the work, determine the work methods, and assist in determining priorities and deadlines. Completed work is reviewed for effectiveness in producing expected results.

You perform work at an experienced professional level under the general guidance of Ms. Barratt as needed for Human Resource guidance. Either Ms. Barratt or another HR specialist will review your completed drafts regarding grievance issues. You independently consult and advise managers and supervisors regarding other matters such as performance development plans, expectations, counseling and corrective action. You also assist with investigations of misconduct and consult and advise managers in Region 1 on a variety of HR issues. The work you perform is within established policies and objectives but you employ a wide variety of rules and processes requiring specialized knowledge and make decisions within established precedents.

In addition, the typical work examples included in the HRC 2 class specification indicate that positions may also perform the duties of an HRC 1. However, the majority of work will be performed at the higher HRC 2 level. Some of the examples of work identified in the HRC 2 class specification similar to the level of work assigned to your position include:

- Providing information and advice to clients regarding applicable laws, rules, policies, and human resource program requirements; recommends alternative courses of action;
- Analyzing laws, rules, policies and practices . . .
- Composing correspondence; preparing analysis and narrative reports regarding human resource activities;
- Analyzing, responding to and resolving . . . grievances and/or complaints . . .

In Chillers v. DSHS, PRB Case No. R-ALLO-07-003 (2007), the Board concluded the HRC 2 class was the appropriate allocation, in part, because the incumbent advised managers and supervisors on HR issues complex in nature but with limited impact. Similar to your position, the incumbent was the primary human resource contact within a DCFS Region and advised and made recommendations to managers and supervisors within established precedents. The incumbent also received guidance from higher level human resource staff for more complex issues.

The majority of work and scope of responsibility assigned to your position (#DN68) best fits within the definition and distinguishing characteristics of the Human Resource Consultant 2 classification.

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

If no further action is taken, the Director's determination becomes final.

c: Pam Pelton, DSHS
Lisa Skriletz, DOP

Enclosure: List of Exhibits

DAWN DeSHAZER v DSHS

ALLO-08-036

Exhibit List

DN68

A. Filed by employee July 15, 2008:

1. Dawn DeShazer letter of request for Director's Review
2. EXHIBIT A Denial letter from Pam Pelton, June 21, 2008.
3. EXHIBIT B Class specifications for HRCA1
4. EXHIBIT C Class specifications for HRC1
5. EXHIBIT D Class specifications for HRC2
6. EXHIBIT E Position Description Form submitted to Ms. Pelton
7. EXHIBIT F Position Review Request submitted to Ms. Pelton
8. EXHIBIT G Examples of work

B. Filed by DSHS August 25, 2008:

1. Position Description Forms, 6/19/08 and 12/12/07.
2. HRD Reallocation Letter, June 20, 2008.
3. Position Review Request, 6/10/08.
4. Previous PFD, 12/17/07.
5. Human Resources Consultant Assistant Class Specs
6. Human Resources Consultant Assistant 2 Class Specs
7. Human Resources Consultant 1 Class Specs
8. Human Resources Consultant 2 Class Specs
9. Human Resources Consultant Series Matrix